

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THE WEITZ COMPANY, LLC,

CASE NO. _____

Plaintiff,

v.

NOTICE OF REMOVAL

GENERAL CASUALTY INSURANCE
CO.,

DEMAND FOR JURY TRIAL

Defendant.

TO: Honorable Judges of the United States District Court for the District of Nebraska
Clerk of the United States District Court for the District of Nebraska
Weitz Company, LLC c/o Joel D. Heusinger, Kory D. George, Woods & Aitken LLP,
301 South 13th Street, Suite 500, Lincoln, Nebraska 68508

Defendant, General Casualty Insurance Co., by and through its attorneys, Nolan, Olson & Stryker, P.C., L.L.O., hereby gives notice of the removal of the above entitled cause, appearing at Case No. CI13-0002865 in the District Court of Lancaster County Nebraska, from the District Court of Lancaster County, Nebraska to the United States District Court for the District of Nebraska pursuant to 28 U.S.C. Sections 1332, 1441 and 1446. In support of this Notice of Removal, the Defendant states as follows:

1. On or about August 5, 2013, Plaintiff, The Weitz Company, LLC, filed a Complaint in the District Court of Lancaster County, Nebraska styled *The Weitz Company, LLC*

vs. *General Casualty Insurance Co.* appearing as Case No. CI13-0002865 (herein sometimes “State Court Action”), seeking a declaratory judgment under a policy of insurance as to Defendant’s alleged duty to defend The Weitz Company, LLC (“Weitz”) under the provisions of the insurance policy and seeking recovery for an alleged breach of the insurance contract by the Defendant arising from Defendant’s alleged failure to defend Weitz. Plaintiff seeks compensatory and other damages, in an undisclosed amount, as a result of Defendant’s alleged failure to fulfill its obligations under a contract of insurance, including defense fees and costs, indemnification in the event a judgment is entered against Weitz in the actions Defendant allegedly had a duty to defend, and attorneys fees in prosecuting the pending action.

2. A Summons and Complaint were first served on Defendant on or about August 10, 2013. Defendant first received a copy of the Complaint on or about August 10, 2013. A true and correct copy of all process and pleadings in the State Court Action is attached hereto marked as Exhibit “1” and incorporated herein by this reference. There have been no other processes, pleadings or orders served upon the removing Defendant to date in the State Court Action.

3. This Notice of Removal has been filed within thirty days of the original service of process with the initial pleadings upon Defendant setting forth the claim for relief upon which the action is based and, therefore, the time for filing this Notice of Removal under the provisions of 28 U.S.C. Section 1446(b) has not expired.

4. This action is one over which the Court has original jurisdiction under the provisions of 28 U.S.C. Section 1332 as the “matter in controversy exclusive of interest and costs” exceeds \$75,000.00 and involves a controversy between citizens of different states as follows:

a. Plaintiff, Weitz, is an Iowa limited liability company, organized and existing under and by virtue of the laws of the State of Iowa. Plaintiff's principal place of business is in Des Moines, Iowa. Plaintiff is therefore a citizen of the State of Iowa.

b. Defendant, General Casualty Insurance Co., is a corporation organized and existing under and by virtue of the laws of the State of Wisconsin. Defendant's principal place of business is in Sun Prairie, Wisconsin. Defendant is therefore a citizen of the State of Wisconsin.

5. This action may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. Section 1441 as the State Court Action is one over which the district courts of the United States have original jurisdiction and this Court is the United States District Court and division embracing where the State Court Action is pending. .

6. Written notice of the filing of this Notice of Removal has been given to all adverse parties as required by law.

7. A true and correct copy of this Notice will be filed with the Clerk of the District Court for Lancaster County, Nebraska, as provided by law.

8. In filing this Notice of Removal, Defendant does not waive and expressly reserves all objections and defenses which it may have under Rule 12(b) of the Federal Rules of Civil Procedure and any other rules applicable to this action. As will be demonstrated hereinafter upon the filing of responsive pleadings, Defendant denies *in toto* any liability to the Plaintiff as alleged in the Complaint.

9. Other than the action being removed herein, the pending actions in the District Court of Lancaster County, Nebraska identified in Plaintiff's Complaint, and those actions filed

by Weitz in the District Court of Lancaster County, Nebraska, against other insurance carriers, appearing in the District Court of Lancaster County, Nebraska styled as follows:

- a. The Weitz Company, LLC v. Employers Mutual Casualty Company CI13-0002863;
- b. The Weitz Company, LLC v. Acuity Insurance Company. CI13-0002864; and
- c. The Weitz Company, LLC v. Zurich American Insurance Co. CI13-0002867.

Defendant is not aware of any pending or related actions on file in any other court of record and none are anticipated.

10. A copy of the Notice to be filed with the Clerk of the District Court of Lancaster County, Nebraska, giving notice of this removal to that Honorable Court is attached hereto as Exhibit "2" and incorporated herein by this reference, exclusive of exhibits, which exhibits would be this Notice and its exhibits.

WHEREFORE, Defendant, General Casualty Insurance Co., gives notice of the removal of this action from the District Court of Lancaster County, Nebraska, to the United States District for the District of Nebraska pursuant to 28 U.S.C. Section 1441.

DESIGNATION OF PLACE OF TRIAL

Defendant demands a jury trial and designates the place of trial as Lincoln, Lancaster County, Nebraska.

Dated this 6th day of September, 2013.

GENERAL CASUALTY INSURANCE CO.,
Defendant

BY: /s/ Brian D. Nolan

Brian D. Nolan, Bar Number: 17764
Susan L. Stryker, Bar Number: 18478
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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Joel D. Heusinger
Kory D. George

And I hereby certify that I have mailed by United States Postal Service, postage prepaid, this document to the following non CM/ECF participants:

None

And I hereby certify that I have mailed by United States Postal Service, postage prepaid, a copy of this document to:

Joel D. Heusinger
Kory D. George
Woods & Aitken LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508

/s/ Brian D. Nolan